



TED ZIGMUNT

STATE REPRESENTATIVE

Testimony in favor of AB 410

Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing
December 15, 2009

Chairperson Taylor, Vice Chair Sullivan, and Committee members, thank you for allowing me to testify today regarding Assembly Bill 410. Also, thank you to Senators Taylor and Sullivan for introducing Senate Bill 283.

Under Wisconsin law, domestic violence offenders may not contact the victim within 72 hours of arrest, unless the victim consents to contact in writing. Currently, Wisconsin law contains a loophole that allows offenders to violate the 72-hour no-contact condition with relative impunity.

When an individual is arrested pursuant to Wisconsin's domestic abuse mandatory arrest law, the individual may not be released until he or she has posted bail or appears before a judge for a bond hearing. When a defendant posts bail from the jail, he or she signs a conditional release agreement. The agreement states the defendant will not contact the victim for 72 hours unless written consent of the victim is filed. The agreement also notifies the defendant that if he or she violates the agreement, the defendant will be subject to a forfeiture of up to \$1,000.

If after signing this document, the defendant immediately contacts the victim, the defendant may only be assessed with the forfeiture. Some law enforcement agencies will re-arrest the defendant and book the defendant at the station for the forfeiture; however, the defendant must be immediately released. The defendant cannot be held in custody or further charged with bail-jumping because violation of the 72-hour no-contact condition is not defined as a crime. Therefore unless the defendant acts in an intimidating or harassing manner, the defendant has technically not violated any of the conditions of bail by contacting the victim.

Wisconsin law should be amended so that violation of the 72 hour no-contact condition is treated in the same manner as a violation of bail conditions. Victims' advocates and law enforcement experience intense frustration because of this loophole.

Under AB 410, a person who violates these provisions is guilty of a Class A misdemeanor and is subject to a fine not to exceed \$10,000, imprisonment not to exceed nine months, or both.

This bill has the support of Wisconsin Professional Police Association and the Wisconsin Coalition Against Domestic Violence.

Thank you once again for allowing me to testify before all of you today.



LENA C. TAYLOR

Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

Testimony of Senator Lena C. Taylor
Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, & Housing
Senate Bill 283 /Assembly Bill 410 – Closing the Domestic Violence Bail Loophole
Tuesday, September 23, 2009

Honorable members of the committee,

Thank you for taking testimony on Assembly Bill 410 and Senate Bill 283, two simple bills that close a loophole which allows domestic violence offenders to violate the 72-hour no-contact condition with relative impunity. I am pleased to partner this session with Rep. Ted Zigmunt on these bills who is here today with me.

Currently, under state law, when a defendant posts bail from the jail, he or she signs a conditional release agreement stating the defendant will not contact the victim for 72 hours unless written consent of the victim is filed. If after signing this document, the defendant immediately contacts the victim, the defendant may only be assessed with a forfeiture of up to \$1,000.

This is a problem because the defendant cannot be held in custody or further charged with bail-jumping, currently a Class A misdemeanor, because violation of the 72-hour no-contact condition is not defined as a crime. Therefore unless the defendant acts in an intimidating or harassing manner, the defendant has technically not violated any of the conditions of bail by contacting the victim.

These bills would change the 72-hour no-contact statute to provide that a violation of the conditional release is also a Class A misdemeanor.

This is a common sense, simple solution to the problem, which is supported by the Wisconsin Coalition Against Domestic Violence. Assembly Bill 410 was unanimously approved in bipartisan fashion in the Assembly Corrections and Courts Committee and passed on a voice vote on the floor.

I encourage your support of this bill.

Thank you.

Testimony



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To: Members of the Senate Committee on the Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing

From: Tony Gibart, Policy Coordinator, Wisconsin Coalition Against Domestic Violence

Date: December 15, 2009

Re: Senate Bill 283 and Assembly Bill 410

Chairperson Taylor and Members of the Committee, thank you very much for the opportunity to provide testimony on Senate Bill 283 and Assembly Bill 410. My name is Tony Gibart, and I represent the Wisconsin Coalition Against Domestic Violence (WCADV). WCADV provides statewide support for victims of domestic abuse, their families, and for professionals working with victims, batterers, and their children. WCADV fully supports this bill, which will close the current loop-hole that allows domestic abusers to violate no-contact conditions of release with little consequence. Under SB 283/AB 410, offenders who violate the 72-hour no-contact conditional release in domestic violence cases will be returned to custody and subject to the same penalties as violators of other bail conditions.

The current domestic violence arrest law contains a loop-hole, which allows offenders to violate the no-contact condition of release.

Currently, when an individual is arrested in accordance with Wisconsin's domestic abuse mandatory arrest law, the individual may not be released until he or she signs a conditional release agreement that states that he or she will not contact the victim for 72 hours unless the victim consents to contact in writing. However, offenders are able to circumvent this victim safety provision because of a dangerous loop-hole. The problem is that violations of the conditional release agreement are not crimes. Therefore, when an offender blatantly violates the condition and contacts the victim, law enforcement has no authority return the offender to custody or prevent future violations.

The no-contact condition (or "cooling off period") is designed to prevent repeat violence and give victims time to recover.

The 72-hour no-contact conditional release is an important feature of Wisconsin's mandatory arrest law. Many states have similar provisions, which are commonly referred to as cooling off periods. Cooling-off periods are informed by an understanding that repeat abuse is most likely to occur in the first few days following an initial attack. When the police are called or victims take steps to leave, perpetrators, driven by a desire to reassert dominance and control, are more likely to become increasingly violent. The time period also gives victims an opportunity to relocate or seek services.

Without SB 283/AB 410 the cooling off period will remain ineffective, to the frustration of law enforcement and the detriment of victims.

Under the current statute, violations of the no-contact condition are only punishable with a monetary forfeiture; and therefore, violations are not defined as crimes. This results in an untenable situation: the offender has willfully violated a condition of his release, but law enforcement has no legal authority to return the offender to custody. Law enforcement officers operating under this system are extremely frustrated by their powerlessness to enforce the conditional release. Likewise, victims lose faith in the

ability of the legal system to protect them. Even more troubling, offenders lose respect for the law and are allowed to push legal boundaries without consequence.

This bill will give the power back to victims and police, while taking it away from savvy offenders who would otherwise take advantage of legal loop-holes. SB 283/AB 410 will allow law enforcement to charge violators of the no-contact condition with a distinct crime and hold them in custody. This simple change will have a monumental impact on victim's safety. With the passage of this legislation, the law will actually protect and empower victims—not be a source of more broken promises.

Thank you again for the opportunity to provide testimony. I urge the committee to support SB 283/AB 410.